



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 97-1-14

SERVED JAN 22, 1997

Issued by the Department of Transportation
on the 15th day of January, 1997

Essential Air Service at

**OTTUMWA, IOWA
STERLING/ROCK FALLS, ILLINOIS**

under 49 U.S.C. 4173 *let seq.*

**Dockets 42911
OST-96-1247**

ORDER TENTATIVELY SELECTING CARRIER AND SETTING FINAL RATES

Summary

By this order we are tentatively selecting Great Lakes Aviation, Ltd., d/b/a United Express (Great Lakes), to provide subsidized essential air service at Ottumwa, Iowa, and Sterling/Rock Falls, Illinois; and we are also setting a final rate for Great Lakes for Sterling/Rock Falls for the period July 8-September 30, 1996.

Background

Sterling/Rock Falls By Order 96-6-16, issued June 7, 1996, the Department requested proposals, with subsidy requests if necessary, from carriers interested in providing essential air service at Sterling/Rock Falls and three other communities¹. The request was in response to a 90-day notice filed by Great Lakes on April 9, 1996, of its intent to suspend its subsidy-free service at all four points. Sterling/Rock Falls is not served by any other airline. Objections to Great Lakes' suspension were filed by the City of Sterling, the City of Rock Falls, the Whiteside County Airport Board, the Sterling Area Chamber of Commerce, and various local businesses. Great Lakes provides two weekday nonstop round trips to Chicago with 19-seat Beech 1900 aircraft.

Ottumwa By Order 94-9-7, issued September 7, 1994, Great Lakes was selected to continue providing essential air service at Ottumwa for an additional two-year period. Subsidy was set at \$309,704 per year for two round trips a day, six days a week, to Chicago O'Hare Airport. One intermediate stop was permitted on one round trip per service day. Great Lakes' rate term at Ottumwa expired September 30, 1996.

¹ Order 96-6-16 also requested proposals for the three other communities: Mt. Vernon, Illinois; Ironwood, Michigan; and Norfolk, Nebraska. The carrier selection decision for those three other points was dealt with separately in Order 96-8-23.



Because of Congressionally mandated reductions in funding for the Essential Air Service Program², the Department by Order 95-11-28 implemented program-wide reductions in subsidy payments and allowed for reduced service levels at most points as of November 27, 1995. Accordingly, the requirement for weekend service was dropped and Great Lakes' subsidy at Ottumwa was reduced from \$309,704 to \$268,410.

In accordance with our normal procedures when nearing the end of a carrier's rate term, we contact the incumbent carrier to determine if it desires to continue providing essential air service and whether it would continue to require subsidy. We usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting it for a new rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative selection.

Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order. If any competing proposals are filed, we process them in a competitive case. In response to our inquiry, Great Lakes filed a proposal encompassing service at both Ottumwa and Sterling/Rock Falls.

Carrier Proposal

Great Lakes proposes to provide two round trips each weekday over the routing Ottumwa-Sterling/Rock Falls-Chicago-Sterling/Rock Falls-Ottumwa, with 19-seat Beech 1900-C aircraft. The carrier has agreed to an annual subsidy rate of \$764,142 for this service and the proposal has the support of the civic officials of Ottumwa and Sterling/Rock Falls. (See Appendix B for the calculation of Great Lakes' subsidy requirement.)

Tentative Reselection

After reviewing Great Lakes' proposal and the comments of the civic parties, we have tentatively decided to select the carrier to serve Ottumwa and Sterling/Rock Falls for a two-year period from October 1, 1996, through September 30, 1998, at the agreed-to subsidy rate of \$764,142. This rate appears reasonable for the service to be provided and is consistent with the level of service we are able to subsidize under our fiscal year 1997 appropriation.

² Congressional funding for the Essential Air Service Program was reduced from \$33.4 million for fiscal year 1995, to \$22.6 million for fiscal year 1996, a reduction of approximately one-third. To achieve the subsidy reductions, the Department stated that it would no longer subsidize any service to a second hub and that it could no longer subsidize more than ten round trips a week, *i.e.*, the equivalent of two round trips, five days per week. Under those guidelines, the Department now subsidizes a maximum of ten round trips a week at all non-Alaska essential air service communities.

Responses To Tentative Decision

In accordance with normal procedures for essential air service carrier selections, we will allow interested parties 20 days to object to our decision and/or to file competing proposals. If no timely objections or competing proposals are filed, this order will automatically become final. We expect persons objecting to our tentative decision to support their objections with relevant and material facts. We will not entertain general, vague, or unsupported objections.

Procedures For Filing Proposals

For interested air carriers that are not familiar with our procedures and recommended form for supplying the necessary information, we have prepared two explanatory documents that we will make available upon request. The first describes the process for handling carrier replacement cases under 49 U.S.C. 41734(f) (formerly section 419 of the Federal Aviation Act) and discusses in detail the process of seeking proposals, conducting financial and operational audits of the applicant carriers and selecting a replacement carrier. The second is an evidence request containing an explanatory statement, and a copy of section 14 CFR 204.4 of the Department's regulations which deals with the information required of all applicants for authority to provide basic essential air service, and provides schedules giving our recommended form for submitting data required for determining the financial and operational ability of applicants to provide dependable air service.³

Community and State Comment

If we receive competing proposals, the communities and States are welcome to submit comments on the proposals at any time.⁴ Early in the proceeding, comments on the perceived strengths and weaknesses of the proposals would be particularly helpful to the Department, although the civic parties may also express a preference for a particular carrier or proposal option at that time, if they choose. In any event, after we conclude rate conferences with all applicants, we will provide a summary of the conference results to the civic parties and ask them to file their final comments.⁵

³ Copies of these documents can be obtained from: EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street, S.W., Washington, DC 20590. Telephone requests for these documents are accepted at (202) 366-1053.

⁴ Civic parties should file an original and five copies of their comments in Dockets OST-96-1247 and 42911. This filing should be addressed to: Documentary Services Division, Docket Section, SVC 121.30, Office of the Secretary, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, S.W., Washington D.C. 20590.

⁵ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not normally hold rate conferences. Instead, we rely on the carrier's subsidy-free service.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination⁶. Consequently, all carriers receiving Federal subsidy to support essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with regulations governing lobbying activities. All carriers that plan to submit proposals involving subsidy should submit the required certifications along with their proposals. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053. The Department is prohibited from paying subsidy to carriers that do not submit these documents.

Past-Period Rate for Service at Sterling/Rock Falls

As a final matter, we are required by law to compensate Great Lakes for the service we required it to provide at Sterling/Rock Falls during the period July 8, 1996-September 30, 1996. Great Lakes filed its notice to terminate its service at Sterling/Rock Falls on April 9, 1996. The 90th day of the notice period was July 7 and, under the provisions of 49 U.S.C. 41734(e), Great Lakes is entitled to compensation for its obligated continued service at the point for the period July 8-September 30, 1996. For this period, the carrier and staff have agreed to an annual subsidy rate of \$495,732, which is equal to the Sterling/Rock Falls-Ottumwa combination rate of \$764,142 less the recently-expired Ottumwa rate of \$268,410.

Carrier Fitness

49 U.S.C. 41738 requires that we find a carrier fit, willing and able to provide service before we may compensate it for essential air service. We last found Great Lakes fit to provide scheduled passenger service as a commuter air carrier by Order 96-12-42, when we selected it to provide subsidized service at Manistee/Ludington, Michigan. The Department has routinely monitored the carrier's continuing fitness, and based on our review of its most recent submissions, we find that Great Lakes continues to have available adequate financial and managerial resources to maintain quality service at Ottumwa and Sterling/Rock Falls, and that it continues to possess a favorable compliance disposition. The Federal Aviation Administration has advised us that the carrier is conducting operations in accordance with its regulations, and knows of no reason why we should not find that Great Lakes remains fit.

Essential Air Service Slots for Sterling/Rock Falls

In 1990, the Department of Transportation granted to Great Lakes the use of four slots at Chicago O'Hare Airport for the expressed purpose of serving Sterling/Rock Falls with at least two round trips a day. These slots would be withdrawn from the carrier's use and made available to a replacement carrier if Great Lakes should ever terminate its service at the point⁷.

This order is issued under authority delegated in 49 CFR 1.56(i).

ACCORDINGLY,

⁶ The regulations applicable to each of these areas are (1) 49 CFR Part 20, New Restrictions on Lobbying, Implementing title 31, United States Code, section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions"; (2) 49 CFR Part 29, Subpart F, Drug-Free Workplace Requirements (Grants) implementing the Drug-Free Workplace Act of 1988; (3) 49 CFR Part 21, Nondiscrimination in Federally-Assisted Programs for the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; 49 CFR Part 27, Nondiscrimination on the basis for Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance; and 14 CFR Part 382, Nondiscrimination on the Basis of Handicap in Air Travel.

⁷ These slots were allocated to Great Lakes by Order 90-7-46, issued July 19, 1990. They are identified as follows: #6074 (11:45), #6222 (18:15), #6310 (12:15) and #6413 (08:15).

1. The Department tentatively selects Great Lakes Aviation, Ltd., d/b/a United Express, to provide essential air service at Ottumwa, Iowa, and Sterling/Rock Falls, Illinois, for the two-year period beginning October 1, 1996, through September 30, 1998;
2. The Department tentatively sets the final rate of compensation for Great Lakes Aviation, Ltd., d/b/a United Express, for the provision of essential air service at Ottumwa, Iowa, and Sterling/Rock Falls, Illinois, from October 1, 1996, through September 30, 1998, at \$764,142 per year, as described in Appendix A, payable as follows: for calendar months during which essential air service is provided, the amount of compensation shall be subject to the ceiling per week of \$15,086.80, and shall be determined by multiplying the subsidy-eligible departures operated during the month, assuming a 19-seat Beech 1900 aircraft, by \$377.17 per departure;
3. The Department sets the final rate of compensation for Great Lakes Aviation, Ltd., d/b/a United Express, for the provision of essential air service at Sterling/Rock Falls, Illinois, from July 8, 1996, through September 30, 1996, at \$495,732 per year, as described in Appendix A, payable as follows: for calendar months during which essential air service is provided, the amount of compensation shall be subject to the ceiling per week of \$9,787.40, and shall be determined by multiplying the subsidy-eligible departures operated during the month, assuming a 19-seat Beech 1900 aircraft, by \$489.37 per departure;
4. We direct Great Lakes Aviation, Ltd., d/b/a United Express, to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

5. If the Government completely terminates all payments at a specific location provided for under this order because of the insufficiency of appropriated funds, then, at the end of the period for which the Government does make payments, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Only total cessation of payments due to insufficient appropriated funds shall trigger this provision; adjustments in the level of subsidy payments do not constitute a total cessation of payment. Essential air service subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department of Transportation regulations, as they may be amended from time to time;
6. We find that Great Lakes Aviation, Ltd., d/b/a United Express, continues to be fit, willing and able to operate as a commuter air carrier and capable of providing essential air service at Ottumwa, Iowa, and Sterling/Rock Falls, Illinois;
7. We direct Great Lakes Aviation, Ltd., d/b/a United Express, and any other interested persons having objections to the selection of Great Lakes Aviation to provide essential air service as described in ordering paragraph 1 above, at the rate set forth in ordering paragraph 2 above, to file such objections or competing service proposals no later than 20 days from the date of service of this order⁸;
8. If we receive objections or competing proposals within the 20-day period, Great Lakes Aviation will be compensated at the subsidy rate set forth in ordering paragraph 2 above as a final rate until all objections are resolved;
9. We will afford full consideration to the matters and issues raised in any timely and properly filed objections and service proposals before we take further action⁹. If no objections or competing service proposals are filed, all further procedural steps will be deemed waived and this order shall become effective on the twenty-first day after its service date; and

⁸ Objections should be filed with the Documentary Services Division, SVC 121.30, Room PL-401, Department of Transportation, 4007th Street, S.W., Washington, DC 20590. Proposals to provide essential air service should be filed with the Chief, EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6417-I, Department of Transportation, at the same address. Questions regarding filings in response to this order may be directed to Dennis J. DeVany at (202) 366-1061.

⁹ Since we are providing for the filing of objections to this order, we will not entertain petitions for reconsideration.

10. We will serve copies of this order on the mayors and airport managers of Ottumwa, Iowa, and Sterling and Rock Falls, Illinois, the Whiteside County Airport Board, the Iowa and Illinois Departments of Transportation, the Governors of Iowa and Illinois, the Sterling Area Chamber of Commerce, Great Lakes Aviation, and the parties listed in Appendix D.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

Appendix C

HISTORICAL ENPLANEMENTS

	<u>Sterling/Rock Falls</u>		<u>Ottumwa</u>	
	<u>No.</u>	<u>Avg.</u>	<u>No.</u>	<u>Avg.</u>
1991	399	1.3	1,342	4.3
1992	770	2.5	1,799	5.7
1993	957	3.1	1,808	5.8
1994	1,168	3.7	1,953	6.2

1995		933	3.0		1,401	4.5
1996 ¹	200	0.9		716	3.1	

SOURCE: Bureau of Transportation Statistics, Form 298-C, Schedule T-1, Form T-100.
Averages refer to enplanements per service day, based on 313 service days each year.

¹ Includes enplanements for the first three quarters of 1996 only.